

Advisory Opinion

IECDB AO 2006-09

July 12, 2006

Gina Noll
PO Box 7255
Des Moines, Iowa 50309

Dear Ms. Noll:

This opinion is in response to your letter of March 29, 2006, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board pursuant to Iowa Code section 68B.32A(11) and Board rule 351—1.2. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

Your opinion request does not present a factual statement outside of your actual question.

QUESTION:

Is it permissible for a legislative candidate to solicit contributions from PACs on behalf of another candidate, receive the contribution checks, and then deliver the checks to the other candidate?

OPINION:

Iowa's campaign finance laws place a number of restrictions on the interactions between candidates and between candidates and PACs such as the following:

1. Iowa Code section 68A.202 that prohibits a candidate from organizing more than one campaign committee and prohibits a PAC from being established to advocate for or against only one candidate for office.
2. Iowa Code section 68A.301 that prohibits a candidate's committee from accepting contributions from, or making contributions to, another candidate's committee.

3. Iowa Code section 68A.302 and Board rule 351—4.25 that set out a number of permissible and impermissible uses of campaign funds.
4. Iowa Code section 68A.303 that limits transfers of campaign funds. This includes Iowa Code section 68A.303(5) that states a “candidate for statewide or legislative office shall not establish, direct, or maintain a political committee.”
5. Iowa Code section 68A.504 that prohibits lobbyists and PACs from making, and candidates for statewide and legislative office from accepting, contributions during legislative session.¹ This includes the prohibition on elected state officials from soliciting contributions during session from a lobbyist or PAC for another candidate for state office involved in a special election held during legislative session.²

In reviewing these sections, it is clear that the General Assembly could have prohibited the situation you describe. However, nothing in the campaign laws expressly prohibits a legislative candidate from soliciting contributions from PACs, receiving the contribution checks, and then delivering the checks to another candidate (other than the prohibition in Iowa Code section 68A.504(2)“b” discussed above and cited in footnote #2 below). Therefore, the situation you describe is not prohibited so long as the following procedural steps are taken:

1. The soliciting candidate makes clear to the PAC who the ultimate recipient candidate of the contribution will be, the PAC check is made out to the ultimate recipient candidate, and the PAC properly discloses on its campaign reports the contribution to the ultimate recipient candidate.
2. The soliciting candidate does not cash the contribution check but delivers it to the ultimate recipient candidate.
3. The ultimate recipient candidate properly discloses the contribution on the candidate’s campaign reports as coming from the PAC.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹This prohibition extends for an additional 30 days after session to the Governor and gubernatorial candidates.

²See Iowa Code section 68A.504(2) “b.”

